REMARKS/ARGUMENTS

Applicant respectfully acknowledges receipt of the Office Action mailed February 7, 2006. In the Office Action, the Examiner (1) rejected claims 2 and 3 on the grounds of obviousness-type double patenting over claims 1 to 6 of U.S. Patent No. 5,741,237; and (2) rejected claims 2 and 3 under 35 U.S.C. § 103(a) as being unpatentable over Matta (US 4,342,328) in view of Engle (US 5,839,484). In response, Applicant has amended claims 2 and 3 and filed a Terminal Disclaimer. New dependent claim 4 has also been added. For the reasons which follow, Applicant requests reconsideration and allowance of all claims.

I. Double Patenting

The Examiner has rejected claims 2 and 3 on the basis of obviousness-type double patenting as being unpatentable over claims 1-6 of Applicant's U.S. Patent No. 5,741,237. As noted by the Examiner, a terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome such rejection. Both the present application and the '237 Patent are commonly owned by Applicant. We enclose a Terminal Disclaimer (form PTO/SB/26) herewith and request that the double-patenting rejection be withdrawn in view of it.

II. The Obvious Rejection

The Examiner contends that it would have been obvious to add the cage of Engle to the floatball valve of Matta, and that the claimed invention is obvious in view of this combination. Applicant has amended claims 2 and 3 as discussed below and submits that the amended claims are patentable.

In Matta, the application of vacuum to the tank induces a flow of fluid out of it, not into it, i.e. the vacuum is drawing fuel (gasoline or diesel oil) from the tank through tube 20, for eventual delivery to the vehicle engine. The valve assembly of Matta is structured to seal the fuel outlet port of the tank when the fuel level drops to a predetermined lower level.

The float 44 is buoyed on the fuel surface, and as the fuel level drops to the "actuation" level, the float moves lower and closes the valve, stopping the flow of further fuel from the tank.

The structure of Applicant's check valve is altogether different from that of Matta. First, Applicant's valve is arranged to stop the application of vacuum when the fluids in the canister reach a predetermined *upper* level. The purpose of this is to stop the fluids (surgical waste liquids) from being drawn out of the canister by the vacuum.

Second, in Applicant's check valve the floatball is positioned below the needle valve to lift the needle valve upwardly to close the vacuum when the fluids in the canister reach the predetermined upper level. The fluid lifts the floatball which in turn pushes the needle valve upwardly to close the vacuum port.

The Matta valve assembly is completely different in purpose, and accordingly in structure. It is configured to stop a tank from emptying, not from filling up. Claims 2 and 3 have been amended to specify that the float ball is positioned below the needle valve to lift the needle valve upwardly to close the vacuum port when the fluids reach the upper level. These limitations clearly distinguish the claimed check valve from the cited references.

III. Conclusion

Applicant respectfully requests reconsideration and allowance of the pending claims. If there are any remaining issues preventing allowance of the claims that may be clarified by telephone, the Examiner is requested to phone the undersigned.

Respectfully submitted,

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